### UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

In re:

Hung N. Pham,

Debtor(s).

Bankr. No. 04-40165-RJK

Chapter 7 Case

NOTICE OF HEARING AND VERIFIED MOTION REGARDING OBJECTION TO ALLOWANCE OF CLAIM

- 1. John R. Stoebner, trustee of the above-captioned estate, moves the Court for the relief requested below and gives notice of hearing herewith.
- 2. The Court will hold a hearing on this motion on October 6, 2004, at 9:30 a.m., in Courtroom No. 8 West, at U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel can be heard. Any response to this motion must be filed and delivered not later than September 29, 2004, which is seven days before the time set for the hearing, or filed and served by mail not later than September 24, 2004, which is ten days before the time set for the hearing. IF NO RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE RELIEF REQUESTED WITHOUT A HEARING.
- 3. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case as a Chapter 7 case was filed on January 14, 2004, and the case is now pending before this Court.
- 4. This motion arises under 11 U.S.C. § 502 and Bankruptcy Rule 3007. This motion is filed under Bankruptcy Rule 9014 and Local Rules 3007-1 and 9013-1 through 9019-1(d). Movant requests relief with respect to the following objection to allowance of claim. A

true and correct copy of said claim is attached to the Motion as filed with the Court. A complete

copy of this Motion and attached claim may be viewed at the Bankruptcy Court's web site at

www.mnb.uscourts.gov.

5. Sterling Inc. dba Goodman Jewelers ("Sterling") filed a Proof of Claim in the

above-captioned case on May 27, 2004, in the amount of \$9,593.86 as an unsecured, non-priority

claim. The Bankruptcy Clerk filed said claim as Claim No. 19.

6. The Trustee objects to Sterling's claim since it is inconsistent with the

Reaffirmation Agreement, which Sterling sent to the debtor on January 29, 2004, and the

attachments to the Proof of Claim, which indicate that Sterling Inc. dba Goodman Jewelers has a

security interest in certain goods. The Trustee sent a written request to Sterling for an

explanation for its position regarding the classification of its claim. However, Sterling failed to

respond. Therefore, Claim No. 19 should be disallowed.

WHEREFORE, the Trustee respectfully moves the Court for an Order that

disallows the aforesaid claim, and for such other relief as may be just and equitable.

LAPP, LIBRA, THOMSON, STOEBNER

& PUSCH, CHARTERED

Dated: August 27, 2004

/e/ John R. Stoebner

John R. Stoebner (#140879)

One Financial Plaza, Suite 2500

120 South Sixth Street

Minneapolis, MN 55402

612/338-5815

Attorneys for Trustee

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### **VERIFICATION**

I, John R. Stoebner, the moving party named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on August 27, 2004

/e/ John R. Stoebner John R. Stoebner, Trustee

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UNITED STATES B DISTRICT OF MINN	ANKRUPTCY COURT	PROOF OF CLAIM WWR# 3383973	Chapter 7
In re (Name of Debtor) HUNG N. PHAM		<b>Case Number</b> 04-40165	This Space is for Court Use Only
	used to make a claim for administrative expenses iled pursuant to 11 U.S.C. § 503.	s after commencement of the case. A	WAS CARRY OF THE STATE OF THE S
Name of Creditor (The entity STERLING INC, DBA Go Send all payments to: c/o Weltman, Weinberg & 323 W. Lakeside Ave., 2 Cleveland, OH 44113	& Reis, Co., LPA	☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. ☐ Check box if you have never received any notices from the bankruptcy court in this case. ☐ Check box if the address differs from the address on the envelope sent to you by the court.	SATAN STATING
ACCOUNT OR OTHER IDENTIFIES 30583533	NUMBER BY WHICH CREDITOR 70	Check here if this claim ☐ replaces filed claim, dated:	amends a previously
BASIS FOR CLAIM:     Goods sold     Services performed     Money loaned     Personal injury/wrongful     Taxes     Other (Describe briefly)	from to	ons (fill out below)	MAY 2 2004
2. DATE DEBT WAS IN	CURRED: 11/29/01	3. IF COURT JUDGMENT, DATE	OBTAINED:
Unsecured Priority. (3) Secure	iM. Under the Bankruptcy Code all claims are clast d. It is possible for part of a claim to be in one cated STATE THE AMOUNT OF THE CLAIM.		
□ SECURED CLAIM \$ plus interest at a rate of  % per annum from  □ Real Estate □ Motor Vehicle □ Other (Describe)  Amount of arrearage and other charges included in secured claim above, if any \$  □ UNSECURED NONPRIORITY CLAIM \$ 9,593.86  A claim is unsecured if there is no collateral or lien on property of Debtor securing the claim or to the extent that the value of such property is less than the amount of the claim.		□ UNSECURED PRIORITY CLAIR Specify the priority of the claim. □ Wages, salaries or commissions (up to 90 days before filing of the bankruptcy petitic business, whichever is earlier)-11 U.S.C. §50 □ Contribulions to an employee benefit; □ Up to \$900 of deposits toward purchas services for personal, family or household us □ Taxes or penalties of governmental ur □ Other-11 U.S.C. §§ 507(a)(2), (a)(5)-(b)	o \$2000). Earned not more than on or cessation of Debtor's 07(a)(3) clan-U.S.C. §507(a)(4) se, lease, or rental of property or se-11 U.S.C. § 507(a)(6) clits-11 U.S.C. § 507(a)(7)
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making this proof of claim. In fi. 7. SUPPORTING DOCUMENT invoices, itemized statements o documents are not available, ex	The amount of all payments on this claim has bee ling this claim, claimant has deducted all amounts TS Attach copies of supporting documents, such a frunning accounts, contracts, court judgments or could feel the documents are voluminous, attach a receive an acknowledgment of the filing of your country.	that claimant owes to Debtor. as promissory notes, purchase orders, evidence of security interests. If the summary.	This space is for Court Use Only
Date: May 20, 2004	Kathryn A. Williams, (0069039) ecfndoh@weltman.com		

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## UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

In re:	Chapter 7
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Hung N. Pham, BKY. No. 04-40165-RJK

Debtor(s)

### UNSWORN CERTIFICATE OF SERVICE

I, Sarah L. Fortin, declare under penalty of perjury that on August 27, 2004, I mailed copies of the attached **Notice of Hearing and Verified Motion Regarding Objection to Allowance of Claim and proposed Order** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Hung N. Pham 7317 78 <sup>th</sup> Avenue North Brooklyn Park, MN 55445	Richard J. Pearson, Esq. P O Box 120088 New Brighton, MN 55112
U.S. TRUSTEE 1015 U.S. COURTHOUSE 300 SOUTH 4 <sup>TH</sup> STREET MINNEAPOLIS, MN 55415	Sterling Inc. dba Goodman Jewelers c/o Weltman, Weinberg & Reis, Co., LPA Attn: Kathryn A. Williams, Officer or Managing Agent 323 West Lakeside Avenue, 2 <sup>nd</sup> Floor Cleveland, OH 44113

Executed on: August 27, 2004 /e/ Sarah L. Fortin

Sarah L. Fortin, Legal Secretary Lapp, Libra, Thomson, Stoebner & Pusch, Chartered 120 South Sixth Street, Suite 2500 Minneapolis, MN 55402 612/338-5815

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# UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA

In re:	Chapter 7 Case
Hung N. Pham,  Debtor.	ORDER REGARDING CLAIM
AA Missassastis Missassasakis (4)	1
At Minneapolis, Minnesota this 6th	day of October, 2004.
This matter came on for hearing before	ore the undersigned Bankruptcy Judge on the 6th day of
October, 2004, on the Trustee's objection to	allowance of claim. Appearances, if any, were as noted
in the record.	
Upon the Motion of the Trustee, and	d the documents of record herein, and the Court being
fully advised in the premises,	
IT IS HEREBY ORDERED:	
1. Claim No. 19 is disallowed.	
Dated:, 2004	Robert J. Kressel United States Bankruptcy Judge
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